

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

DANIEL HARVEY RIGGS,

Petitioner,

v.

TIMOTHY FILSON, *et al.*,

Respondents.

Case No. 3:21-cv-00071-ART-CSD

ORDER

This habeas matter is before the Court on Respondents' Notice of Voluntary Withdrawal of their Motion to Dismiss (ECF No. 46).

It is therefore ordered that Respondents will have 60 days from the date of entry of this order to answer the petition. Petitioner will have 60 days to file a reply to the answer.

It is further ordered that any procedural defenses raised by Respondents in this case must be raised together in a single consolidated motion to dismiss. Respondents may not file a response in this case that consolidates their procedural defenses, if any, with their response on the merits, except pursuant to 28 U.S.C. § 2254(b)(2) as to any unexhausted claims clearly lacking merit. If Respondents do seek dismissal of unexhausted claims under § 2254(b)(2): (a) they must do so within the single motion to dismiss not in the answer; and (b) they will specifically direct their argument to the standard for dismissal under § 2254(b)(2) set forth in *Cassett v. Stewart*, 406 F.3d 614, 623-24 (9th Cir. 2005). All procedural defenses, including exhaustion, must be raised by motion to dismiss.

It is further ordered that in any answer filed on the merits, Respondents must specifically cite to and address the applicable state court written decision

1 and state court record materials, if any, regarding each claim within the response
2 as to that claim.

3 It is further ordered that Respondents must file a set of state court exhibits
4 relevant to the response filed to the petition, in chronological order.

5 It is further ordered that all state court records and related
6 exhibits must be filed in accordance with LR IA 10-3, LR IC 2-2, and LSR 3-3,
7 and include a separate index identifying each additional exhibit by number or
8 letter. The index must be filed in CM/ECF's document upload screen as the
9 base document to receive the base docket number (*e.g.*, ECF No. 10). Each
10 exhibit will then be filed as "attachments" to the base document—the index—
11 to receive a sequenced sub-docket number (*e.g.*, Exhibit A (ECF No. 10-1), Exhibit
12 B (ECF No. 10-2), Exhibit C (ECF No. 10-3), and so forth). If the exhibits will span
13 more than one filing, the base document in each successive filing must be
14 either a copy of the index or volume cover page. *See* LR IC 2-2(a)(3)(A).

15 It is further ordered that, notwithstanding LR IC 2-2(g), paper copies of any
16 electronically filed exhibits—for this case—*need not* be provided to chambers or
17 to the staff attorney, unless later directed by the court.

18 DATED THIS 9th day of March 2023.

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20 ANNE R. TRAUM
21 UNITED STATES DISTRICT JUDGE
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